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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-203247

DATE: June 9, 1981

MATTER OF: International Business Investment, Inc.

[Contract Award Protest]

DIGEST:

Contracting agency's decision on reprocurement to award contract to third low bidder was reasonable where vital service was being disrupted and second low bidder refused to accept contract because it was incapable of starting performance within short time required by agency.

International Business Investment, Inc. (IBI), protests the award of a contract to any other firm for guard services at the Uniformed Services University of the Health Sciences, Bethesda, Maryland.

The Defense Supply Service awarded contract No. MDA-903-81-C-0020 to Security Unlimited Enterprises, Inc., but found it necessary to terminate this contract for default. The agency then approached IBI as the next low bidder to determine if that firm would accept a contract and begin performance the next day. IBI wanted the contract, but could not begin performance in such a short time. Consequently, the Defense Supply Service awarded a contract to the third low bidder. IBI believes that it was unreasonable and contrary to proper procurement practice for the agency to expect it to begin performance approximately 18 hours after notice of an award.

This case falls within the ambit of our decisions which hold that where it is clear from a protester's initial submission that the protest is without legal merit, we will decide the matter on the basis of the protester's initial submission without requesting a report from the procuring activity pursuant to our Bid Protest Procedures. 4 C.F.R. part 20 (1980). Northwest Instrument, B-200873, November 18, 1980, 80-2 CPD 373.

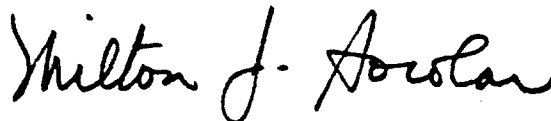
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We have held that when a procurement is for the account of a defaulted contractor, the statutes and regulations governing procurement by the Government are not strictly applicable to the reprocurement. Dynal Associates, Inc., B-197348, July 14, 1980, 80-2 CPD 29. We have also held that the award of a reprocurement contract to the next qualified bidder is a recognized method of reprocurement. Hemet Valley Flying Service, Inc., 57 Comp. Gen. 703 (1978), 78-2 CPD 117. Further, when a contracting agency is faced with a potential break in vital services due to a contractor's default, it is not unreasonable for the agency to award the reprocurement contract to the next qualified bidder under the original solicitation capable of starting performance before any break in service occurs or at least minimizing any disruption. See, e.g., Jets Services, Inc., B-186596, February 15, 1977, 77-1 CPD 108.

Here, a vital service was being disrupted. IBI was given the opportunity to accept the award but refused. The award was made to the next lowest bidder capable of starting performance within the short time allowed. Based on these facts and the general rules set out above, we believe that the Defense Supply Service's decision to award the contract to the third low bidder was a reasonable exercise of its administrative discretion.

The protest is therefore summarily denied.



Acting Comptroller General
of the United States